

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

David Tyrone Hill, : Case No. 1:15-cv-762
: Plaintiff,
: vs.
: Ohio Department of Rehabilitation and
: Corrections, et al,
: Defendants.

ORDER

Before the Court are Plaintiff's objections to the Magistrate Judge's January 29, 2016 Report and Recommendation. In that Report (Doc. 10), the Magistrate Judge recommended that Hill's motion for leave to proceed in forma pauperis be denied, and he be ordered to pay the full filing fee within 30 days. 28 U.S.C. §1915(g), as amended by the Prison Litigation Reform Act of 1995, states that a prisoner who has brought three or more actions in federal court that were dismissed because they were frivolous, malicious, or failed to state a claim for relief, may not proceed in forma pauperis unless the prisoner "is under imminent danger of serious physical injury." The Magistrate Judge cited at least four cases Hill filed in the Northern District of Ohio between 2006 and 2015 which were all dismissed as frivolous or for failure to state a claim upon initial screening. In view of Hill's previous "three strikes," he is prohibited from proceeding in forma pauperis in this case, unless he pleads facts demonstrating that he faces an imminent danger of serious physical injury while incarcerated.

In his objections (Doc. 13), Hill refers to his attempt to appeal the Report and Recommendation, which the Sixth Circuit has since dismissed. (See Doc. 15) He then

argues that the defendants acted under color of state law, as state actors, and he has satisfied the requirements of a Section 1983 claim. He claims that he did not receive the court's order denying him in forma pauperis status, and contends that he will experience the same conditions of confinement if he is denied that status. He relates events surrounding his prison grievance, and alleges that "Defendants" confiscated his legal material. He alleges that his grievances challenging "annoying and needlessly harassing acts" by certain corrections officers have been rejected, and suggests that his only recourse for relief is through the courts. Hill contends that he is being deprived of photographs and pages of information, and asks the Court to order an investigation and award him relief.

Nowhere in Hill's objections does he plead any facts that might support a claim or a reasonable inference that he is facing imminent danger of serious physical injury. He is clearly unhappy with the outcomes of his prison grievances, but that is plainly insufficient to show an error in the Magistrate Judge's conclusions.

As required by 28 U.S.C. §636(b)(1)(C) and Federal Rule of Civil Procedure 72(b), the Court has conducted a de novo review of the record in this case. Upon such review, the Court finds that Hill's objections to the Magistrate Judge's Report lack merit and they are overruled. The Report is adopted in full. Hill's motion for leave to proceed in forma pauperis (Doc. 9) is denied. Hill must pay the full \$400 case filing fee within 30 days of the date of entry of this Order, or by April 25, 2016, in order to continue prosecuting this case. Plaintiff is hereby notified that his failure to pay the full \$400 fee within 30 days will result in the dismissal of his action.

The Court certifies, pursuant to 28 U.S.C. §1915(a)(3), that an appeal of this

Order would not be taken in good faith, and denies Hill leave to appeal in forma pauperis. See McGore v. Wrigglesworth, 114 F.3d 601 (6th Cir. 1997).

SO ORDERED.

DATED: March 23, 2016

s/Sandra S. Beckwith

Sandra S. Beckwith, Senior Judge
United States District Court